

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

A.B.R.A. Agenda

Agenda
Hearing

May 1, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member

P-R-O-C-E-E-D-I-N-G-S

(6:52 p.m.)

CHAIRPERSON MILLER: Okay. We're back on the record to do our agendas for today, May 1, 2014.

So first on the Licensing Agenda is a request for a change in seating capacity designation for Cloud located at 1919 19th Street, N.W., License No. 093572.

I move that we placard this request. Do I have a second?

MEMBER RODRIGUEZ: Second.

CHAIRPERSON MILLER: Mr. Rodriguez seconded the motion.

All those in favor say aye.

ALL: Aye.

CHAIRPERSON MILLER: All those opposed? All those abstaining? The motion passes 4-0-0.

No. 2 is an application for a new retailer 25 percent Class B License for City Corner located at 2601 Sherman Avenue, N.W.,

1 License No. 094857.

2 I move that we placard this
3 application. Do I have a second?

4 MEMBER RODRIGUEZ: Second.

5 CHAIRPERSON MILLER: Mr. Rodriguez
6 has seconded the motion.

7 All those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? The motion
11 passes 4-0-0.

12 No. 3 is an application requesting
13 change of hours for a summer garden for Golden
14 Dollar located at 1104 H Street, N.W., License
15 No. 079090.

16 I move that we placard this
17 application.

18 MEMBER ALBERTI: Madam Chair,
19 that's Little Miss Whiskey's Golden Dollar.

20 CHAIRPERSON MILLER: Oh, what did
21 I say?

22 MEMBER ALBERTI: I'll double

1 check. You're good.

2 CHAIRPERSON MILLER: You're right.
3 Little Miss Whiskey's Golden Dollar.

4 MEMBER SILVERSTEIN: I second the
5 motion to placard.

6 CHAIRPERSON MILLER: Okay. There
7 is a motion to placard.

8 All those in favor say aye.

9 MEMBER RODRIGUEZ: Aye.

10 CHAIRPERSON MILLER: Aye.

11 MEMBER SILVERSTEIN: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed?

14 MEMBER ALBERTI: I'm recusing
15 myself from that decision.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: Mr. Alberti is
18 recusing himself.

19 CHAIRPERSON MILLER: Okay. So the
20 motion passes 3-0-1, I guess. Okay. Alberti
21 recused. Okay.

22 No. 4 is an application to change

1 hours of live entertainment. This is for Zoo
2 Bar Cafe located at 3000 Connecticut Avenue,
3 N.W., License No. 060391, and it is only to
4 add entertainment Sunday and Wednesday 7:30
5 p.m. to 10:00 p.m.

6 So I move to approve. Do I have a
7 second?

8 MEMBER SILVERSTEIN: Second.

9 CHAIRPERSON MILLER: Mr.
10 Silverstein has seconded the motion.

11 All those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those
14 opposed? All those abstaining? The motion
15 passes 4-0-0.

16 Okay. No. 5 is an application for
17 a new Retailer Class C Restaurant License in
18 Georgetown Historic District Moratorium Zone.
19 It is AN & JM, LLC located at 1513 Wisconsin
20 Avenue, N.W..

21 No. 6 is an application for a new
22 Retailer Class C Restaurant License in

1 Georgetown Historic District Moratorium Zone.
2 That is FR & LH, LLC, 1515 Wisconsin Avenue,
3 N.W.

4 And I believe we have a third
5 application for a new Retailer Class C License
6 in Georgetown Historic District Moratorium
7 Zone, Ching, LLC.

8 And I'm going to move that we have
9 a Fact-Finding Hearing with respect to those
10 three establishments.

11 MEMBER RODRIGUEZ: Second.

12 CHAIRPERSON MILLER: Mr. Rodriguez
13 has seconded the motion.

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those
17 opposed? All those abstaining? The motion
18 passes 4-0-0.

19 No. 7 on this agenda is an
20 application for a new Retailer Class C
21 Restaurant License in Georgetown Historic
22 District Moratorium Zone. It is Georgetown

1 Restaurant Partners, LTD, 3150 M Street, N.W.

2 And I move that we deny this
3 application because the applicant is a
4 landlord seeking to hold the license for
5 future tenants and these licenses need to be
6 put in use.

7 MEMBER ALBERTI: Well --

8 CHAIRPERSON MILLER: Yes? Do you
9 have a comment?

10 MEMBER ALBERTI: Yes. That's part
11 of it, but --

12 CHAIRPERSON MILLER: Okay.

13 MEMBER ALBERTI: -- we cannot
14 issue a license to someone who doesn't plan to
15 operate the license.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: We can only issue
18 a license to the person who intends to
19 operate. And this applicant, as you said,
20 told us on the application that they don't
21 intend to operate. They intend to allow a
22 tenant to operate.

1 CHAIRPERSON MILLER: And not a
2 current tenant either.

3 MEMBER ALBERTI: Pardon?

4 CHAIRPERSON MILLER: They don't
5 have a tenant identified on that application
6 either.

7 MEMBER ALBERTI: It doesn't
8 matter. They are not seeking the application
9 for their own --

10 CHAIRPERSON MILLER: Okay.

11 MEMBER ALBERTI: -- for them to
12 operate. So we would -- it doesn't matter
13 where it would be in the city. We would have
14 to deny this regardless.

15 CHAIRPERSON MILLER: Okay. There
16 is a motion to deny that has been seconded and
17 spoken to. Does anybody else have any
18 comments? Okay.

19 All those in favor of the motion
20 to deny say aye.

21 ALL: Aye.

22 CHAIRPERSON MILLER: All those

1 opposed? All those abstaining? The motion
2 passes 4-0-0 to deny.

3 No. 8 is an application for new
4 Retailer Class C Restaurant License in
5 Georgetown Historic District Moratorium Zone.
6 This is for Yummi Crawfish & Seafood
7 Restaurant, LLC t/a Yummi Crawfish located at
8 1529 Wisconsin Avenue, N.W.

9 I move that we refer this one to
10 licensing. Does anybody want to speak to
11 that? Otherwise, does anyone want to second
12 the motion?

13 MEMBER ALBERTI: I'll second the
14 motion.

15 CHAIRPERSON MILLER: Okay. Mr.
16 Alberti has seconded the motion.

17 MEMBER ALBERTI: I will just say
18 it's my understanding that the license
19 application is incomplete, at this time, and
20 that's why we need to refer it to licensing.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER ALBERTI: Because at the

1 status it's so incomplete, it cannot be
2 considered by the Board.

3 CHAIRPERSON MILLER: Okay. Okay.
4 There is a motion to refer to licensing.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 4-0-0.

10 Okay. That is the Licensing
11 Agenda.

12 So now, we also have a Legal
13 Agenda. Okay. No. 1 is a complaint dated
14 April 15, 2014 from Carl Messineo related to
15 Macon-DC located at 5520 Connecticut Avenue,
16 N.W., License No. 93939.

17 There is another complaint related
18 to this same establishment set forth in No. 2.
19 That is a complaint dated April 15, 2014 from
20 Janet Shenk.

21 I move that we refer both of these
22 complaints to enforcement and ask for a report

1 from enforcement in two weeks.

2 MEMBER RODRIGUEZ: Second.

3 CHAIRPERSON MILLER: Mr. Rodriguez
4 has seconded the motion.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 4-0-0.

10 No. 3 is a review of a notice and
11 opportunity to cure dated April 15, 2014 from
12 Aileen Johnson and Sarah Goldfrank,
13 protestants, for New Town Kitchen and Lounge.
14 That is located at 1336 U Street, N.W.,
15 License No. 93095.

16 This is just an FYI, so no action
17 is required on the part of the Board.

18 No. 4 is a settlement agreement
19 dated April 21, 2014 between ANC-2C and Top
20 Shelf, LLC related to Penn Quarter Sports
21 Tavern located at 639 Indiana Avenue, N.W.,
22 License No. 76039.

1 So I would move to approve this
2 settlement agreement with a few modifications.
3 One would be to paragraph 3(b) with respect to
4 the Show Cause language and also paragraph 5
5 with respect to Show Cause language.

6 Does anyone else have any
7 modifications they wish to recommend?

8 MEMBER ALBERTI: I also would like
9 to offer an amendment to your motion, which is
10 that to amend paragraph 3 to eliminate the
11 language that requires the licensee to meet
12 with the ANC. Such a requirement is
13 explicitly prohibited by the statute.

14 CHAIRPERSON MILLER: Any other
15 modifications?

16 Okay. Is there a second to the
17 motion as amended or modified?

18 MEMBER SILVERSTEIN: Second.

19 CHAIRPERSON MILLER: Okay. Mr.
20 Silverstein seconded the motion.

21 All those in favor say aye.

22 ALL: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? All those abstaining? The motion
3 passes 4-0-0.

4 No. 5 is a request from E & J
5 Gallo to provide retailers with products
6 valued at more than \$50 and less than \$500.

7 I move that we approve this
8 request. Do I have a second?

9 MEMBER ALBERTI: Second.

10 CHAIRPERSON MILLER: Mr. Alberti
11 seconded the motion.

12 All those in favor say aye.

13 ALL: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? The motion
16 passes 4-0-0.

17 Okay. That's our Legal Agenda.
18 We have a Supplemental Legal Agenda.

19 First on the Supplemental Legal
20 Agenda is a request of a promotion dated April
21 26, 2014 from Ricardo Vergara, owner of Par
22 Bar, LLC. The establishment is H Street

1 Country Club, 1335 H Street, N.E., License No.
2 76649.

3 And it is in reference to various
4 businesses that serve food having an event.
5 So I would move approval of this request.

6 MEMBER ALBERTI: Well, I'm not
7 sure we are approving the request. This isn't
8 really a formal application, but I think that
9 we are agreeing with their interpretation that
10 this does not violate the settlement
11 agreement.

12 CHAIRPERSON MILLER: We can do
13 that. I mean, they asked for our approval,
14 but we can phrase it however we think it is
15 appropriate.

16 MEMBER ALBERTI: We haven't --

17 CHAIRPERSON MILLER: What?

18 MEMBER ALBERTI: Patrons will not
19 be -- no, no, I'm sorry. This is part of the
20 agreement.

21 CHAIRPERSON MILLER: We seek
22 approval from ABRA for such a promotion, June

1 6th through 8th.

2 MEMBER ALBERTI: All right. Fine.

3 CHAIRPERSON MILLER: It doesn't
4 necessarily require approval. I understand.

5 MEMBER ALBERTI: It doesn't
6 require approval.

7 CHAIRPERSON MILLER: Right, right.
8 But they want to make sure it's okay. So --

9 MEMBER ALBERTI: And we are
10 approving it under what? As what? That's
11 what I'm asking here, what are we approving
12 here?

13 CHAIRPERSON MILLER: Right.

14 MEMBER ALBERTI: We don't have an
15 application for anything. I don't know what
16 we are approving.

17 MEMBER RODRIGUEZ: Is this just a
18 point of information for us?

19 MEMBER ALBERTI: I --

20 CHAIRPERSON MILLER: No.

21 MEMBER ALBERTI: -- think it's a
22 point of information and I think an

1 acknowledgement by the Board that we agree
2 with their interpretation that this --

3 CHAIRPERSON MILLER: Okay. They
4 actually asked -- they said the ANC says that
5 it doesn't violate their voluntary agreement
6 specifically bar crawls and want us to
7 confirm.

8 MEMBER ALBERTI: And that's what
9 I'm saying. We are confirming --

10 CHAIRPERSON MILLER: Okay.

11 MEMBER ALBERTI: -- we are
12 agreeing with their interpretation that this
13 does not violate that settlement agreement.

14 CHAIRPERSON MILLER: Okay. Let's
15 do that. All right. So I move that we
16 confirm that they are not in violation of the
17 settlement agreement.

18 MEMBER ALBERTI: And I will be
19 recusing myself from that.

20 CHAIRPERSON MILLER: Oh.

21 MEMBER RODRIGUEZ: Thanks.

22 MEMBER ALBERTI: I just wanted to

1 clarify what my understanding of what you told
2 me in the -- earlier.

3 CHAIRPERSON MILLER: Okay. All
4 right.

5 MEMBER ALBERTI: You had conveyed
6 to me that that's what we were doing earlier
7 and so I just wanted to make sure that -- I
8 just wanted to remind you of that.

9 CHAIRPERSON MILLER: Okay. So I
10 am going to move, right, that we confirm that
11 this event is not a violation of the
12 settlement agreement, that we are aware of.
13 So is there a second?

14 MEMBER SILVERSTEIN: Second.

15 CHAIRPERSON MILLER: Okay. Mr.
16 Silverstein has seconded the motion.

17 All those in favor say aye.

18 ALL: Aye.

19 CHAIRPERSON MILLER: All those
20 opposed? All those abstaining?

21 MEMBER ALBERTI: Mr. Alberti
22 recuses himself since I must represent the ANC

1 on that settlement agreement.

2 CHAIRPERSON MILLER: Okay. Then
3 the motion passes 3-0-1 confirming no
4 violation of the SA.

5 Okay. No. 2 is a request for a
6 rat and vermin control contract by the
7 abutting property owner dated April 25, 2014.
8 The establishment is Ninnella located at 106
9 13th Street, S.E.

10 They have a settlement agreement
11 that says if there is a rat problem, then, let
12 me see I should probably read it --

13 MEMBER ALBERTI: The --

14 CHAIRPERSON MILLER: Here it is.
15 They said --

16 MEMBER ALBERTI: Go ahead.

17 CHAIRPERSON MILLER: "Applicant
18 shall provide proof of its rat and vermin
19 control contract upon the request of the Board
20 when there is evidence of a problem." And the
21 people making the request did provide evidence
22 to us of a rat problem.

1 MEMBER ALBERTI: They provided us
2 with --

3 CHAIRPERSON MILLER: Rodent
4 problem.

5 MEMBER ALBERTI: -- they provided
6 us a summary suspension from the Department of
7 Health based on the evidence of rodents.

8 CHAIRPERSON MILLER: Right, right.
9 It seems to be like an email from the DOH
10 saying that a summary suspension was issued to
11 the restaurant on April 22, 2014 due to
12 evidence of rodents found inside the facility.

13 MEMBER ALBERTI: Right.

14 CHAIRPERSON MILLER: Okay. So I
15 would move that we require the licensee to
16 provide us with proof of its rat and vermin
17 control contract and then we will provide it
18 to the individuals that have just requested
19 it, okay, in this letter, which is Edward and
20 Leslie Nottage. Okay.

21 MEMBER RODRIGUEZ: Can I ask a
22 question, Madam Chair?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER RODRIGUEZ: Yes. Does this
3 imply that they don't have a rodent control
4 program or that there is -- their rodent
5 control program is ineffective? I just wanted
6 to understand.

7 CHAIRPERSON MILLER: Well --

8 MEMBER ALBERTI: We don't know.

9 MEMBER RODRIGUEZ: We don't know.
10 Okay.

11 CHAIRPERSON MILLER: It may be
12 ineffective, because they have rodents, but I
13 don't really know.

14 MEMBER ALBERTI: Well, it's either
15 -- we know from the evidence of -- from DOH
16 that it is --

17 CHAIRPERSON MILLER: It was a
18 problem.

19 MEMBER ALBERTI: -- at least
20 temporarily ineffectively.

21 MEMBER RODRIGUEZ: Ineffective
22 because -- right. Okay.

1 MEMBER ALBERTI: Or it doesn't
2 exist.

3 MEMBER RODRIGUEZ: Okay.

4 MEMBER ALBERTI: And that is why
5 it has been requested.

6 MEMBER RODRIGUEZ: In other words,
7 there is a violation here and we --

8 MEMBER ALBERTI: No, it's not a
9 violation.

10 CHAIRPERSON MILLER: It was a DOH
11 violation, yeah.

12 MEMBER ALBERTI: The settlement
13 agreement requires that they have rodent and
14 vermin control contract.

15 MEMBER RODRIGUEZ: Right.

16 MEMBER ALBERTI: The complainants
17 want us to verify that they actually do have
18 such a contract.

19 MEMBER RODRIGUEZ: Okay. I stand
20 informed. Thank you.

21 MEMBER ALBERTI: That's why they
22 are requesting a copy of the contract.

1 MEMBER RODRIGUEZ: Thank you.

2 MEMBER ALBERTI: If it doesn't
3 exist, they will not be able to produce one.

4 MEMBER RODRIGUEZ: Okay.

5 CHAIRPERSON MILLER: Yeah, their
6 agreement says "Applicant shall provide rat
7 and vermin control for its property.
8 Applicant shall provide proof of its rat and
9 vermin control contract upon a reasonable
10 request of the protestants when there is
11 evidence of a problem."

12 MEMBER RODRIGUEZ: Okay.

13 CHAIRPERSON MILLER: So that is
14 there, evidence of a problem. So I have made
15 a motion for the licensee to provide proof of
16 its contract of rat and vermin control and
17 then we will provide it to the protestants.
18 Is there a second?

19 MEMBER ALBERTI: I'll second.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Alberti seconded the motion.

22 All those in favor say aye.

1 ALL: Aye.

2 CHAIRPERSON MILLER: All those
3 opposed? All those abstaining? The motion
4 passes 4-0-0.

5 No. 3 is a letter dated April 29,
6 2014 from Stephen J. O'Brien, counsel, for
7 Citymarket Hotel Development, LLC related to
8 Cambria Suites, 899 O Street, N.W., License
9 No. 94523.

10 I move in response to this letter
11 that we actually -- that they replacard.
12 Apparently their placard fell down and they
13 haven't placarded the entire required period.
14 So I move that they be required to replacard.

15 MEMBER RODRIGUEZ: Second.

16 CHAIRPERSON MILLER: Okay. Mr.
17 Rodriguez has seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed? All those abstaining? The motion
22 passes 4-0-0.

1 No. 4 is a letter regarding
2 licenses in safekeeping in Adams Morgan dated
3 April 28, 2014 from Ted Guthrie, Commissioner
4 of ANC-1C03. And it brings to our attention
5 that they want the Board to act aggressively
6 to cancel any restaurant licenses within the
7 Adams Morgan Moratorium Zone that have
8 languished in safekeeping.

9 So this letter is an FYI. No
10 further action -- I mean, no action is
11 required on it.

12 And that concludes our
13 Supplemental Legal Agenda and all of our
14 agendas for today.

15 Okay. And I just have to read the
16 instructions, then we can vote on our closed
17 meetings for next week.

18 As Chairperson of the Alcoholic
19 Beverage Control Board for the District of
20 Columbia and in accordance with DC Official
21 Code Section 2-574(b) of the Open Meetings
22 Act, I move that the ABC Board hold a closed

1 meeting on May 7, 2014 for the purpose of
2 seeking legal advice from our counsel on the
3 matters identified on the Board's Agenda for
4 May 7, 2014 as published in the DC Register on
5 May 2, 2014.

6 Is there a second? Second? Is
7 there a second?

8 MEMBER ALBERTI: Second.

9 CHAIRPERSON MILLER: Mr. Alberti
10 has seconded the motion. I'll now take a roll
11 call vote on the motion before us now that it
12 has been seconded.

13 Mr. Alberti?

14 MEMBER ALBERTI: I agree.

15 CHAIRPERSON MILLER: Mr.
16 Rodriguez?

17 MEMBER RODRIGUEZ: I agree.

18 CHAIRPERSON MILLER: Ms. Miller
19 agrees.

20 Mr. Silverstein?

21 MEMBER SILVERSTEIN: I agree.

22 CHAIRPERSON MILLER: Okay. It

1 appears that the motion has passed by a 4-0-0
2 vote.

3 I hereby give notice that the ABC
4 Board will hold this aforementioned closed
5 meeting pursuant to the Open Meetings
6 Amendment Act of 2010. Notice will also be
7 posted on the ABC Board hearing room bulletin
8 board, placed on the electronic calendar on
9 ABRA's website and published in the DC
10 Register in as timely a manner as practicable.

11 As Chairperson of the Alcoholic
12 Beverage Control Board for the District of
13 Columbia and in accordance with DC Official
14 Code Section 2-574(b), closed meetings, and 2-
15 574, notice of meetings, of the Open Meetings
16 Act, I move that the ABC Board hold a closed
17 meeting on May 7, 2014 for the purpose of
18 discussing and hearing reports concerning
19 ongoing or planned investigations of alleged
20 criminal or civil misconduct or violations of
21 law or regulations and seeking legal advice
22 from our counsel on the Board's Investigative

1 Agenda for May 7, 2014 as published in the DC
2 Register on May 2, 2014.

3 Is there a second?

4 MEMBER ALBERTI: Second.

5 CHAIRPERSON MILLER: I'll take a
6 roll call vote on the motion before us now
7 that it has been seconded.

8 Mr. Alberti?

9 MEMBER ALBERTI: I agree.

10 CHAIRPERSON MILLER: Mr.
11 Rodriguez?

12 MEMBER RODRIGUEZ: I agree.

13 CHAIRPERSON MILLER: Ms. Miller
14 agrees.

15 Mr. Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIRPERSON MILLER: It appears
18 that the motion has passed by a 4-0-0 vote.

19 I hereby give notice that the ABC
20 Board will hold this aforementioned closed
21 meeting pursuant to the Open Meetings Act.
22 Notice will also be posted on the ABC Board

1 hearing room bulletin board, placed on the
2 electronic calendar on ABRA's website and
3 published in the DC Register in as timely a
4 manner as practicable.

5 Okay. So that concludes our
6 business for May 1, 2014 and we are adjourned.

7 MEMBER RODRIGUEZ: I agree we be
8 done.

9 CHAIRPERSON MILLER: Thank you.

10 (Whereupon, the A.B.R.A. Agenda in
11 the above-entitled matter was concluded at
12 7:14 p.m.)
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